

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**DIANNA MARIE RAWE (2)**

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**CASE NUMBER 9:22-CR-00031-MAC**

**REPORT AND RECOMMENDATION ON  
THE DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States magistrate judge.

On October 27, 2022, the Defendant filed a motion seeking a psychiatric or psychological exam to determine if the Defendant was suffering from a mental disease or defect rendering her mentally incompetent to the extent she is unable to understand the nature and consequences of the proceedings against her or to assist properly in her defense, and the court granted that motion on November 2, 2022. (Doc. No. 19, 21.) The Defendant was subsequently evaluated by Lesli Johnson, Ph.D., Licensed Psychologist at the Federal Correctional Institution in Houston, Texas and found competent.

Dr. Johnson's psychiatric report concludes that the Defendant does not appear to suffer from a mental disease or defect rendering her unable to understand the nature and consequences of the proceedings against her or to properly assist in her defense. (Doc. No. 53.)

A competency hearing was conducted on March 7, 2023. At the hearing, the Defendant appeared in court with counsel, David Barlow. David Barlow did not present any objections to

Dr. Johnson's opinion on competency. Neither the Government nor the defense objected to the psychological report's results and findings.

The undersigned concludes that the Defendant is able to understand the nature and consequences of the proceedings against her and to assist properly in her defense. The Defendant has a rational and factual understanding of the proceeding against her, and has sufficient present ability to consult with her attorney with a reasonable degree of rational understanding. 18 U.S.C. § 4241(d); *see also Dusky v. United States*, 362 U.S. 402 (1960).

### **RECOMMENDATION**

The court should find the Defendant competent to stand trial because she understands the nature and consequences of the proceeding against her and is able to assist in her defense. *See* 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from March 15, 2023 (the date the Defendant filed an Unopposed Motion for Psychiatric Exam), until the date on which the District Judge signs the order adopting this report and recommendation.

### **OBJECTIONS**

Pursuant to 28 U.S.C. § 636(b)(1)(C), each party to this action has the right to file objections to this Report and Recommendation. However, the parties have informed the undersigned that they waive the fourteen-day objection period. Therefore, this report is ripe for the District Judge to adopt.

SIGNED this 16th day of March, 2023.

  
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Zack Hawthorn  
United States Magistrate Judge